

99. ELECTRIC SERVICE FRANCHISE REQUIRED

99.01. Findings. The common council finds that recent expansion of the municipal boundaries of the city has created a situation where the orderly expansion of the electric distribution facilities of the public utility department is required into areas of the city where facilities of another public utility are located. The common council further finds that in order to prevent future unnecessary duplication of electric distribution facilities, higher costs to the customers of both the city and the other public utility system, installation of electric distribution facilities not constructed to the minimum standards established by the city, conservation of public right-of-way, preservation of aesthetics by elimination of unnecessary facilities, and to provide for an orderly process of municipal planning, it is necessary to prohibit the further expansion of electrical distribution facilities by a public utility within the corporate limits of the city unless such expansion is done pursuant to the terms and conditions of a franchise granted by the city.

99.02. Purpose. This ordinance is adopted pursuant to the powers of the city as set forth in Chapter XVI of it's Home Rule Charter and is intended to be consistent with the right of the city, pursuant to Minnesota Statutes 216B.36, to regulate certain activities of a public utility occupying the streets and other public ways of the city. It is intended that by adopting the provisions of this ordinance, the economic welfare of the citizens of the city and the customers of the public utility department, as well as the customers of any other public utility serving customers in the city, shall be protected. Further, it is intended to promote the general health, safety and welfare of the citizens of the city by providing for orderly growth and efficient planning for the expansion of all municipal services, including the provision of electric service at retail.

99.03. Definitions. For purposes of this ordinance, the following terms shall be defined as follows:

Subd. 1. "Person" means a natural person, a partnership, private corporation, a public corporation, an association, a cooperative whether incorporated or not, or two or more persons having a joint or common interest.

Subd. 2. "Customer" means a person contracting for or purchasing electric service at retail from an electric utility.

Subd. 3. "Electric service" means electric service furnished to a customer at retail for ultimate consumption, but does not include wholesale electric energy furnished by an electric utility to another electric utility for resale.

Subd. 4. "Electric line" means lines for conducting electric energy at a design voltage of 25,000 volts phase to phase or less used for distributing electric energy directly to customers at retail.

Subd. 5. "Electric utility" means a person or entity operating, maintaining or controlling within the city equipment or facilities for providing electric service at retail and which falls within the definition of "public utility" as that term is described in Minnesota Statutes 216B.02, subd. 4, and includes a cooperative electric association.

99.04. Extension of Facilities Prohibited. Following the adoption of this ordinance, no public utility serving a customer within the city may serve any new customer by means of the extension of an existing electric line, or by means of the upgrading of existing electric service distribution facilities, until the public utility has obtained a franchise from the city as provided in Chapter XVI of the Home Rule Charter of the city.

99.05. Exemptions. This ordinance shall not be deemed to prevent an electric utility already serving a customer on the effective date of this ordinance from:

(a) continuing to serve said customer until the city has acquired the right to do so under the provisions of Minnesota Statutes 216B.44;

(b) repairing or maintaining electric lines and distribution facilities already in place made necessary in order to maintain reliable service;

(c) extending electric lines and distribution facilities within the city for the sole purpose of facilitating service to existing or new customers located outside of the municipal boundaries of the city.

99.06. Enforcement. In addition to any criminal provisions provided for herein, the city attorney is empowered to enforce the provisions of this ordinance by initiation of a proceeding seeking equitable or other appropriate relief in the name of the city in the District Court of the Third Judicial District in Olmsted County against any violator, including a customer of any violator.

99.07. Penalties. Subdivision 1. Any person, including an officer, employee or agent of a public utility who violates the provisions of this ordinance shall be guilty of a misdemeanor. Each violation shall be deemed to be a separate offense, and each day's continuance of said violation shall be deemed a separate and distinct offense, and may be punished accordingly.

(2636, 5/23/89)